PRIVY COUNCIL REPORT

JAAFAR BIN IBRAHIM v. GAN KIM KIN

[P.C. (Lord Bridge of Harwich, Lord Brightman, Lord Templeman, Lord Mackay of Clashfern and Lord Oliver of Aylmerton) May 20, 1987]

[Privy Council – Appeal No. 55 of 1985]

Contract – Agreement for transfer of land – Whether time limits to be construed strictly.

Practice and Procedure – Concurrent findings of High Court and Appellate Court – No grounds to interfere with those findings.

This was an appeal from the decision of the Federal Court ([1985] 2 M.L.J. 24) dismissing an appeal from the judgment of Peh Swee Chin J., holding, *inter alia*, that this was a case where time was not merely of the essence of the contract but fulfilment of the promise by the appellant to obtain the approval on or before a certain date was a condition precedent to the whole contract.

Held: (1) insofar as the appeal turned on issues of fact, there were concurrent findings of fact in favour of the respondent by both courts below and their Lordships of the Privy Council could find no conceivable grounds for interfering with those findings;

(2) on the application of the law to those facts, both the courts below came to the correct and only proper conclusions at which they could arrive;

(3) the reasons given by the Federal Court for their decision seemed to the Privy Council wholly convincing and their Lordships of the Privy Council adopted them.

PRIVY COUNCIL APPEAL FROM MALAYSIA.

Navaratnam Ramachandran for the appellant.
Nicholas Stewart Q.C. for the defendant.

Lord Bridge of Harwich (delivering oral Judgment of the Board): This is an appeal from a judgment of the Federal Court of Malaysia dated September 18, 1984 dismissing an appeal from a judgment of the High Court delivered by Mr. Justice Peh Swee Chin on June 5, 1984, whereby he dismissed the claims of the plaintiff, the appellant before their Lordships' Board, and allowed a counterclaim of the defendant, who is the respondent before their Lordships' Board. The Federal Court gave their reasons in writing for their decision on February 23, 1985. Insofar as the appeal turns on issues of fact there were concurrent findings of fact in favour of the respondent by both courts below and their Lordships can find no conceivable ground for interfering with those findings. On the application of the law to those facts it seems to their Lordships that both courts below came to the correct and indeed to the only proper conclusions at which they could arrive. The submissions of counsel for the appellant who has done, if their Lordships may say so, his manful best to persuade the Board that there is matter here for consideration on appeal have failed to persuade their Lordships that there is in truth any arguable ground on which the decision of the Federal Court can be criticised. The reasons given by the Federal Court for their decision seem to their Lordships wholly convincing and this Board gratefully adopts them.

Their Lordships will accordingly report to His Majesty the Yang di-Pertuan Agong their opinion that this appeal ought to be dismissed with costs.

Appeal dismissed.

Solicitors: *Philip Conway Thomas & Co.; Clifford Chance.*